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Venezuela Land Markets, Land Reform, and Rural Land Ownership

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CURRENCY AND EQUIVALENT UNITS

Currency Unit - Bolivar (Bs)

<u>Currency Unit</u>	<u>January 1, 1992</u>
US\$1	Bs 47.5
Bs 1	US\$0.02
Bs 1,000	US\$21.05

MEASURES

1 hectare (ha) = 10,000 square meters (m²) = 2.47 acres

1 kilometer (km) = 0.62 mile (mi)

1 square kilometer (km²) = 0.39 square miles = 100 ha

ACRONYMS

BANDAGRO	Banco de Desarrollo Agrícola (Agricultural Development Bank)
CIARA	Fundación para la Capacitación e Investigación Aplicada a la Reforma Agraria (Foundation for Training and Applied Research for the Agrarian Reform)
CORDIPLAN	Oficina Central de Coordinación y Planificación de la Presidencia de la República (Central Coordinating and Planning Office of the Presidency)
FCA	Fondo de Crédito Agropecuario (Agricultural and Livestock Credit Fund)
IAN	Instituto Agrario Nacional (National Agrarian Institute)
ICAP	Instituto de Crédito Agropecuario (Agricultural and Livestock Credit Institute)
LIMS	Land Information Management System
MAC	Ministerio de Agricultura y Cria (Ministry of Agriculture and Livestock)
MARNR	Ministerio del Ambiente y de Recursos Naturales Renovables (Ministry of the Environment and or Renewable Natural Resources)

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Abstract: This report evaluates the rural land market in Venezuela, examining the impact of the land reform on land distribution and ownership and examining the impediments to an active and competitive land market.

There has been a lack of progress in changing the composition of land ownership in Venezuela despite thirty years of a land reform program. Land ownership remains very concentrated. Also, the land market has failed to develop. There are three issues that inhibit the development of a land market. First, land provided under the agrarian reform program cannot be transferred by the owner thereby inhibiting entry and exit on reform land. Second, the majority of land, whether reform land or otherwise, is untitled or insufficiently titled so that the title is not marketable. Third, there are large tracts of unused land suitable for agriculture that are held by the state.

Following the analysis, the report provides recommendations that would activate the land market, enhance agricultural productivity, and still meet the goals of the agrarian reform. The central recommendation involves implementing a land information management system and mapping titles into that system. This, along with changes in the title-status of agrarian reform recipients, will provide marketable titles to private landowners. The government should follow this by selling the considerable tracts of agricultural land to which it holds title.

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This report is based on the findings of a mission which visited Venezuela in December, 1991. Mission members were Malcolm Bale (Mission Leader), LA1EA, and Jonathan Coleman, Steven Hendrix and Stephen Smith (Consultants).

GLOSSARY OF TERMS

adverse possession	A method of acquiring complete title to land as against all others, including the recorded owner, through possession over an uninterrupted period of time. Most jurisdictions require that the possession be actual, visible, open, notorious, hostile, continuous and exclusive.
<i>agraristas</i>	The name given in Venezuela to those persons (farm leaders, academics, campesino union members) who believe in the traditional, socialistic ideology of land reform.
<i>asentamiento</i>	A rural settlement.
cadastre	An official registry of the quantity, value and ownership of real property based on geodesy. More recently the term has been expanded to include a mapping of land for multiple purposes. The terms "multi-purpose cadastre" and "multi-purpose information system" are often used interchangeably.
<i>campesino</i>	The rural poor, whether farm workers or operators of <i>minifundios</i> . In this report it is used synonymously with "peasant."
<i>dotación</i>	The administrative act whereby IAN awards possession and property of farm land to a person or group of persons of rural residence who are qualified subjects of the agrarian reform.
<i>ejido</i> land	Land that belonged to the municipalities at the time of colonization, along with other lands acquired by the municipalities. It generally cannot be sold or mortgaged.
fee simple	A title of complete ownership, which can be sold by the owner or devised to the owner's heirs. The word "fee" itself notes that the property can be inherited. "Simple" refers to the fact that there are no restrictions.
geodesy	A branch of mathematics concerned with the determination of the size and shape of the earth and the exact positions of points on its surface.
<i>hacienda</i>	A farm, of any commercial size, usually operated using modern inputs and some hired labor, as distinct from a <i>latifundio</i> (see below).
<i>latifundio</i>	Large rural properties, farmed with traditional technology and semi-indentured servitude of the farm laborers who live on the farm.
lien	The security of interest created by a mortgage. A charge upon property (real or personal) to satisfy a debt.

medium producers	Those producers whose gross annual income obtained in agricultural activity is greater than 30,000 bolivares and less than 70,000 bolivares, provided that the farm activity is performed personally and that hired labor does not exceed 70% of the total days worked on the farm.
<i>minifundio</i>	A subsistence farm or a farm too small to be commercially viable in the sense of providing the sole source of income for its operator.
optimal farm size	A notional concept of farm size, not an absolute size. Formally, it is that size of farm that results when the marginal value products of all inputs used in farming are equated to their price.
real property	Land and buildings, along with the rights connected to the land (as distinguished from personal property and intellectual property).
regularization	The administrative act whereby the Directorate of the National Agrarian Institute determines the possession and limits of a certain piece of land by a qualified subject of the agrarian reform by means of the granting of a title of property.
<i>sindicato</i>	A group of landless rural workers who unite to petition the land reform agency for land to establish a rural community.
small producers	Those whose gross annual income, earned in agricultural activity, does not exceed 30,000 bolivares, provided that the farm activity is performed personally with the help of his/her family.
<i>tierras baldías</i>	Literally, bald land. Land for which no ownership has been assigned (no title given) and is therefore claimed by the federal government.
title	One who holds vested rights in property is said to have title.
absolute title	An exclusive title, or a title which excludes all others not compatible with it.
definitive title (<i>titulo definitivo</i>)	This is the document that is granted to beneficiaries of the agrarian reform to definitively transfer the property to the recipient.
free and clear title, good title, merchantable title, marketable title	These titles are all synonyms. Clear means that it is free of encumbrances. Good means that it is free of litigation or doubts.

onerous title (<i>titulo oneroso</i>)	In civil law, title to property acquired by the giving of a valuable consideration for it, usually money, but where rights under the title are restricted.
provisional title (<i>titulo provisional</i>)	This is the document that is originally granted to one or more beneficiaries when a parcel is given to them under the agrarian reform until a definitive title is granted.
"reform" land	Land that has been provided to IAN, the land reform agency, to be distributed under the Agrarian Reform Program.
Torrens System	A system for registration of land under which, upon the landowner's application, the court may direct the issuance of a certificate of title. With exceptions, this certificate is conclusive as to the applicant's estate in land. Basically, it is a system of registration of land titles. The originator was Sir Richard Torrens, 1814-1884, a reformer of land law in Australia.
usucaption	Civil law concept similar to adverse possession
usufruct	Civil law concept for the right to use and enjoy the property of another. The user may not alter the substance of the property, but may use it for profit, utility and advantage.

EXECUTIVE SUMMARY

1. In terms of the overall importance in the economy of Venezuela, agriculture is, by GDP measures, small. Agriculture and agroindustry accounts for only 6% of GDP and 1% of exports. Yet agriculture in Venezuela has a political and social importance not revealed in the numbers. The rural sector contains many poor, and smallholder farming is seen by policymakers as a major means of providing economic opportunity and equity to the poor. The "social importance" of farm land is a phrase that is frequently heard when discussing agriculture in Venezuela and this concept provided the initial impetus for land reform. But agriculture has a potential economic importance also. Venezuela is well endowed with agricultural land. There is considerable physical scope for expansion of the area under cultivation—more than 20 million hectares (ha). For various reasons, some of which are explored in this report, agriculture has failed to fully develop.
2. Venezuela, like many countries in the region, has a very unequal distribution of farm lands, with control largely in the hands of a small group. Social unrest has led to pressures to change this system and resulted in the Agrarian Reform Law of 1960. Under the reforms, land was provided at nominal cost to landless farm workers and rural poor. Recipients of reform land have a perpetual right to farm the land. They must farm it, may improve it, may assign the right to heirs, but cannot "sell" the land as they do not hold a "free and clear" title to it. The restriction on the sale of reform land is based on the concern that under an unrestricted market, land ownership patterns would revert to those prior to the land reform.
3. Both supporters of the land reform, *agraristas*, and the market-oriented technocrats, agree that the reform has made little progress toward its main goals of providing land and economic opportunity for the rural peasant and changing the latifundio-minifundio character of Venezuelan agriculture. Over 80% of the land is still owned by less than 7% of the landholders. At the other end of the spectrum, only 8% of the land is divided among over 80% of the farm units.
4. The agrarian reform was a social and political success in that it averted a revolution, but it has not been an economic success for agriculture. The reasons that relatively little has been accomplished are: some land which has been included in the reform process has not been distributed or has not had its ownership status determined; even less land has been titled; some parcels that are given are too small to be economically viable; and very little infrastructure and technical assistance have been provided to reform beneficiaries. What land reform has accomplished for Venezuela is to satisfy part of its rural poor, who have been given some opportunity to produce. The challenge for policymakers is to put in place policies and incentives that would allow smallholders to evolve from subsistence to small-scale commercial farmers and to extend the opportunities for agriculture by expanding the land market.
5. To achieve these aims, the Government wishes to activate the land market in Venezuela, consistent with providing land to rural peasants and creating an efficient, market driven agricultural sector. Three immediate objectives should be to:

- (a) Give clear titles to reform beneficiaries and others on land of ambiguous ownership;
 - (b) Provide access to land for the rural poor who are capable of farming; and
 - (c) Privatize government lands suitable for agriculture.
6. The long-term objective that these lead to is the establishment of an efficient, market-driven agriculture, free to structure itself according to market forces, under open access to all who wish to participate in it. These objectives are consistent with, and will operate well, only in conjunction with the overall policy reforms presently underway in the agricultural sector. There are four related actions that need to be undertaken to accomplish these objectives:
 - (a) Develop a land information management system as a necessary first step to defining the area, quality, ownership, and other characteristics of the nation's endowment of land;
 - (b) Provide marketable titles, by completing the cadastre, and "regularizing" land ownership;
 - (c) Reformulate the functions of the agrarian reform agency so that it becomes a regulatory body; and
 - (d) Implement a mechanism to increase the rate of privatizing government land.
 7. Venezuela does not have a modern scientific method of identifying ownership of parcels of land. This is a prerequisite to providing clear titles and eliminating land disputes. Venezuela should establish a comprehensive land information management system (LIMS) based on a modern cadastre. Properly implemented, so that the property registry is integrated with the cadastre, this land information system can be used as a planning, monitoring and fiscal tool. A LIMS will have a positive impact on security and clarity of tenure.
 8. Titling would also play an essential role in strengthening the land market. All agrarian reform land, when titled, has titles preventing its transfer (sale or rental). At present, more than 60% of the country's land plots are thought to be without title or with non-marketable titles. These plots, lacking documentation of formal ownership, command less value than plots with formal documentation. As a result, property value is based not on the productive value of the land, but on its formality. Further, it is not possible to obtain term credit on land that does not have a marketable title.
 9. As the cadastre proceeds, Venezuela should provide marketable titles for agrarian reform lands. Consolidation of landholdings into large *haciendas* is not a likely result of such an action as large landholdings are not necessarily more efficient than smaller landholdings. Some consolidation of suboptimal sized units would occur as determined by the market. The guiding principle is that farmers, led by market forces, not the government, should decide farm size. The government should restrict its role to assuring that the regulatory conditions exist for a well functioning market. Formal titling and resolving tenure disputes would improve the efficient functioning of a land market. This would enhance tenure security and stimulate productivity enhancing investment in agriculture.
 10. The agency responsible for implementing the agrarian reform, the National Agrarian Institute (IAN), has provided about 9 million ha of land to beneficiaries, but this has had only a marginal effect on the distribution of land, farmer productivity and rural development. A few landowners still

control a large share of farmland and many small farmers account for a very small share of the total farmed land. The agency needs to be restructured. Many of its past activities could be assigned to the private sector while it becomes a land commission with regulatory and quasi judicial functions. The new IAN would also be responsible for regularizing land titles and supervising the sale and subdivision of government land.

11. Disputes may arise over ownership as the concordance between the local registries and the LIMS is being put in place. These disputes would need to be resolved in an expeditious and equitable manner. Different types of occupation of land will require different procedures for resolving disputes. The process centers on requiring local communities to determine boundaries and ownership with the assistance and adjudication of the land commission which has the authority to compensate aggrieved parties in the case of ambiguous land situations. Compensation would be in the form of a grant of land. A further aspect of the process is to regularize land ownership quickly with the minimum of social friction by providing land to those with "legitimate" claims. Finally, a modest flat land tax would be implemented in order to finance the LIMS and to discourage the holding of unused land. Solutions for different types of land are summarized below.
12. *Campesinos* who have been squatting on land, private or public, for a period of time, perhaps three years, and where the rightful owner has not enforced his property rights, would be given title to the parcel of land if they can prove to have farmed it, as is the case under present law. Communities of squatters on *latifundios* would be required to resolve disputes within themselves, with the assistance of the land commission, and present a plan to the titling authority. All landowners, including newly titled *campesinos*, would be required to pay a fee for receiving clear title.
13. Unoccupied state land suitable for agriculture should be sold to developers (who may be farmer organizations) with marketable titles or provided at nominal cost to *campesinos* displaced during the land regularization process.
14. On agrarian reform land which has been distributed, the present pattern of land occupancy and use reflects properties that have been abandoned and others for which informal (illegal) arrangements have been made between the parties involved. Once cadastral points have been established the local community (*asentamiento*) would be required to submit to the land commission a plan, agreed by the community that establishes ownership of plots within the area based on existing settlement/production patterns. Fee-simple titles will then be provided and recorded on the LIMS. Where informal arrangements have been made between beneficiaries, they will be honored. Taxation of land that falls under this category would commence from the day owners obtain a marketable fee-simple title. The Land Commission would be available to provide technical guidance at local meetings where the ownership plan is being decided and to ensure the integrity of the process. But basically the responsibility for providing resolution to local disputes on reform land is the local community.
15. Other reform land has been subdivided and occupied but has not yet been issued with any type of title. This represents areas of recent occupancy where eligible farmers have been identified but have not been issued titles. Since many of these areas contain the original illegal occupants, there is likely to be disputed property and boundaries. Again, the responsibility for clarifying these situations would rest with the local organizations. The Land Commission would hear cases for those who feel seriously aggrieved. Where merit exists on both sides and good faith has been used by both, the commission may rule that the aggrieved party receive compensation from the state in the form of an equivalent plot of land in a newly developing land area. The objective of the exercise is to regularize

land titles with the minimum of social conflict and provide farming opportunities to those who wish to have them. The purpose is not to maximize government revenue from the sale of its land.

16. There is another class of occupants on reform land that may need to be treated differently. They are the large landholdings that have been invaded by politically powerful interests. Where cases such as this can be identified, then the state has a role, in the interests of social justice, to intervene. In these cases, government would exercise its ownership rights to the land and offer the land for sale at auction. The present occupier would have the first right of refusal at the auctioned price less the value of the improvements that he has made. If this option is not exercised, the occupier would be compensated from the selling price for the improvements he has made.
17. Finally, there are large areas of unused or informally occupied public land, yet to be improved, that could be privatized. Those occupying the land who are using it in a "socially beneficial" way,^{1/} and have occupied the land for (say) three years, would be given clear title if they are willing to pay the recording fee on the land. If the land has been adversely possessed, similar to that described above, then remedies similar to those could be used. At the end of the process fee-simple titles would be recorded on the LIMS.
18. In order to dispose of state land that has not been occupied or distributed, the land would be divided into three categories:
 - (a) land unsuitable for agriculture that should remain in reserves;
 - (b) land suitable for agriculture that is set aside to be used by the government to compensate those with secondary claims on land; and
 - (c) land suitable for agriculture that the state will sell within a specified time.
19. Land would be sold, under specified conditions, to developers and *campesino* unions at auction. The market determines the value of land and allows the selection of farmers based on the value they place on the land. The government establishes the general criteria that bonded developers must follow in terms of the infrastructure they must provide, and the time over which development will occur. The developer presents a more detailed plan showing the location of infrastructure, the boundaries of each parcel, and the approximate number of farmers to be settled on the land. The developer would subdivide the land and sell it to *campesinos*. Private developers bidding on the land, reflecting what they know they can sell the land for (based on its productivity) will bid the market price. Owners of *latifundios* who are now using their land extensively, may be tempted to sell it to a developer or become a developer themselves. Thus the land market is truly activated and privatized.
20. For this outcome to result, the other necessary prerequisites of a land market are essential. Land must be documented and titling clear. That is, the cadastral and registry parts of the LIMS must be complete. Credit must be available, the regulatory functions of the government must be well defined, and the government must have undertaken an inventory of its land so that it can place the appropriate parcels on the market at the appropriate time. Privatization of suitable agricultural lands

^{1/} "Socially beneficial" land use is defined in para 1.17.

would be the object of the exercise. Making a profit from the sale for the government would be secondary but is the logical outcome of the process of allocating land to those demanding it.

21. As with all land sale programs through market mechanisms, payments due must be low enough to permit repayment out of the income earned by farming. Success also requires governments and lenders to abandon the view that small-holder land buyers must be kept on the land even if they do not earn enough money to meet their debt service. Those who suffer personal misfortunes or are not successful farmers, must be encouraged to transfer their land to another *campesino* and seek other employment.

22. An agrarian reform of sizable dimensions, with very positive distributional and output results, could emerge. The program would be private and free of paternalism. It would represent a dramatic attempt to regularize land titles, activate the land market, solve credit constraints, privatize state land, and stimulate agricultural growth. It would be a major step along the path of economic development for Venezuela.

RESUMEN EJECUTIVO

1. En términos de la importancia en la economía venezolana, su agricultura es pequeña en relación al PIB. La agricultura y la agroindustria representan sólo 6% del PIB y 1% de las exportaciones. Sin embargo, las cifras no revelan la importancia política y social de la agricultura venezolana. El sector rural presenta mucha pobreza, y los políticos consideran la pequeña producción agrícola como una vía importante para proporcionar oportunidades económicas y equidad a los pobres. El uso de la frase "importancia social" de la tierra agrícola es frecuente en discusiones sobre la agricultura venezolana; este concepto incentivó la reforma agraria. La agricultura también tiene un potencial económico importante. El patrimonio de tierras agrícolas en Venezuela favorece la ampliación del área cultivada - más de 20 millones de hectáreas. Por varias razones, algunas de ellas analizadas en el presente informe, la agricultura no ha sido plenamente desarrollada.

2. Como ocurre en muchos otros países de la región, la distribución desigual de tierras agrícolas en Venezuela está en manos de un grupo pequeño. La inquietud social ha llevado a presiones para cambiar este sistema y resultó en la Ley de Reforma Agraria de 1960. Bajo estas reformas, se proporcionó tierra a costo mínimo a los trabajadores agrícolas sin tierras y a los campesinos pobres. Los beneficiarios de la reforma agraria gozan del derecho perpetuo de cultivar su terreno. Deben cultivarlo, pueden mejorarlo o cederlo, pero no pueden "vender" su terreno por no tener un título puro y simple. Esta restricción sobre la venta de terrenos sujetos a la reforma agraria, se basa en la inquietud de que bajo un mercado sin restricciones, los patrones de propiedad de tierras revertirían a aquellos patrones en vigor antes de la reforma.

3. Tanto los agraristas como los tecnócratas con orientación comercial, coinciden que la reforma ha logrado poco éxito en sus principales metas de proporcionar tierras y oportunidades económicas a los campesinos y cambiar el carácter latifundista/minifundista de la agricultura venezolana. Más de 80% de la tierra sigue en manos de menos de 7% de los terratenientes. Al otro extremo, sólo 8% de la tierra está dividida entre más de 80% de las unidades agrícolas.

4. La reforma agraria constituyó un éxito social y político por evitar una revolución, pero no ha sido un éxito económico para la agricultura. Las razones de los pocos logros incluyen: falta distribuir o determinar la propiedad de algunas tierras incluidas en la reforma agraria; aún menos tierra ha sido titulada; algunas de las parcelas no son económicamente viables por ser muy pequeñas; asimismo, se ha suministrado muy poca infraestructura y asistencia técnica a los beneficiarios de la reforma. La reforma agraria venezolana ha logrado satisfacer parte de la población rural que ha tenido alguna posibilidad de producir. El reto para los políticos es implementar políticas e incentivos que permitan convertir a los pequeños agricultores de subsistencia en productores comerciales de pequeña escala, extendiendo las oportunidades agrícolas al ampliar el mercado de tierras.

5. Para lograr estos objetivos, el Gobierno venezolano piensa activar el mercado de tierras, en consistencia con la otorgación de tierras a los campesinos y la creación de un eficiente sector agrícola de mercado, con tres objetivos inmediatos:

- (a) otorgar títulos seguros a los beneficiarios de la reforma agraria y otros sobre tierras de propiedad ambigua;
- (b) permitir el acceso a tierras a los campesinos capaces de cultivar; y
- (c) privatizar las tierras públicas que sean factibles para la agricultura.

6. El objetivo a largo plazo sería el establecimiento de una eficiente agricultura de mercado con la libertad de estructurarse según las fuerzas del mercado, de libre acceso a toda persona que quiera participar en ella. Estos objetivos son consistentes con las actuales reformas políticas globales en el sector agrícola, y sólo operarán en conjunto con ellas, tomándose cuatro acciones afines:

- (a) desarrollar un sistema de administración de datos sobre tierras, como un primer paso importante en la definición del área, la calidad, la propiedad y otras características del patrimonio nacional de tierras;
- (b) proporcionar títulos negociables, completando el catastro y regularizando la propiedad de tierras;
- (c) reformular las funciones de la agencia de reforma agraria para convertirla en órgano regulador; e
- (d) implementar un mecanismo para aumentar el índice de privatización de tierras públicas.

7. Venezuela no cuenta con un método científico moderno para identificar la propiedad de parcelas, un requisito para otorgar títulos seguros y eliminar el litigio sobre tierras. Venezuela deberá establecer un amplio sistema de administración de datos sobre tierras (LIMS) basado en un catastro moderno. Debidamente implementado, e integrado con el catastro, este sistema de propiedades podrá ser usado como instrumento fiscal, de planificación y monitoreamiento, y tendrá un impacto positivo sobre la seguridad y claridad de la tenencia.

8. La titulación también tendrá un papel esencial al fortalecer el mercado de tierras. Toda tierra sujeta a la reforma agraria tiene títulos que prohíben su transferencia (mediante venta o arrendamiento). En la actualidad, se estima que a 60% de las parcelas del país les faltan títulos o tienen títulos no-negociables. Estas parcelas, sin documentación sobre su propiedad formal, tienen menos valor que aquellas con documentación formal. Como resultado, el valor de una propiedad no está basado en el valor productivo del terreno, sino en su formalidad. Además, no es posible obtener crédito a plazos sobre terrenos sin título negociable.

9. Al proceder con el catastro, Venezuela deberá otorgar títulos negociables para tierras sujetas a la reforma agraria. No es probable que la consolidación de tierras en grandes haciendas sea un resultado de tal acción porque las grandes propiedades no son necesariamente más eficientes que las pequeñas. Ocurriría alguna consolidación de unidades de tamaño inferior, determinada por el mercado. El principio fundamental es que los agricultores, influenciados por las fuerzas del mercado y no las del gobierno, deberían determinar el tamaño de la propiedad. La función del gobierno debería limitarse a asegurar que existen condiciones reguladoras para el buen funcionamiento del mercado. La titulación formal y la resolución de litigios sobre la tenencia, mejorarían el funcionamiento eficiente de un mercado de tierras, aumentando la seguridad de tenencia y fomentando la productividad y las inversiones agrícolas.

10. El Instituto Agrario Nacional (IAN), responsable por la implementación de la reforma agraria, ha otorgado unas 9 millones de hectáreas a los beneficiarios, pero con efectos marginales sobre la distribución de tierras, la productividad de los agricultores, y el desarrollo rural. Algunos grandes terratenientes todavía controlan una proporción importante de la tierra agrícola, y muchos agricultores pequeños sólo representan una proporción mínima del total de tierras cultivadas. La agencia debería ser reestructurada, asignando muchas de sus actividades anteriores al sector privado mientras se convierta en una comisión de tierras con funciones reguladoras y semi-judiciales. El nuevo IAN también sería responsable por regularizar títulos y supervisar la venta y sub-división de tierras fiscales.

11. Podrían surgir litigios sobre la propiedad, durante la implementación de la concordancia entre los registros locales y el LIMS. Tales litigios deberán ser resueltos de manera expedita y justa. Los diferentes tipos de ocupación de tierras requerirán distintos procedimientos para la resolución de litigios. Este proceso está centrado en el requisito de que las comunidades locales determinen los límites y la propiedad con la asistencia y el fallo de la comisión de tierras que tiene la autoridad de compensar a las partes agraviadas en caso de situaciones de tierra ambiguas, en forma de una otorgación de tierra. Otro aspecto del proceso es la rápida regularización de la propiedad con un mínimo de conflicto social, proporcionando tierras a demandantes "legítimos". Finalmente, un modesto impuesto fijo sería implementado para financiar el LIMS y no fomentar la propiedad de tierras baldías. Se presenta a continuación soluciones para cuatro distintas clases de tierras.

12. Los campesinos que hayan ocupado ilegalmente un terreno, privado o público, por un período de quizá tres años, cuyo propietario no haya ejercido sus derechos de propiedad, recibirían el título de la parcela si pueden dar pruebas de haberla cultivado, como es el caso bajo la ley actual. Las comunidades de ocupantes ilegales en latifundios tendrían que resolver los litigios entre sí, con la asistencia de la comisión de tierras, y presentar un plan a la autoridad de titulación. Todos los propietarios de tierras, incluyendo los campesinos con nuevos títulos, tendrían que pagar honorarios por recibir un título seguro.

13. Las tierras públicas baldías con potencial agrícola deberán ser vendidas a empresarios (que pueden ser organizaciones de agricultores) con títulos negociables u otorgados a un costo mínimo a los campesinos desplazados durante el proceso de regularización de la tierra.

14. Respecto a las tierras de la reforma agraria, el actual patrón de ocupación y utilización de las mismas refleja las propiedades abandonadas y otras para las que arreglos informales (ilegales) hayan sido acordados entre las partes involucradas. Una vez establecidos los puntos catastrales, el asentamiento deberá proponer un plan a la comisión de tierras, acordado por la comunidad, estableciendo la propiedad de parcelas dentro del área. Títulos de dominio absoluto serán proporcionados y registrados en el LIMS. Los arreglos informales entre beneficiarios serán aceptados. Los impuestos sobre tierras en esta categoría comenzarían desde el día en que los propietarios obtengan un título negociable de dominio absoluto. La Comisión de Tierras estaría disponible para suministrar asesoramiento técnico durante reuniones locales en las cuales se decide el plan de propiedad y para asegurar la integridad del proceso. Básicamente, la comunidad local tiene la responsabilidad de resolver los litigios locales sobre tierras sujetas a la reforma agraria.

15. Otras áreas sujetas a la reforma agraria que han sido sub-divididas y ocupadas, sin recibir hasta el momento ningún tipo de título, representan áreas de ocupación reciente en las que los agricultores elegibles han sido identificados pero no han recibido títulos. En vista de que muchas de estas áreas contienen los ocupantes ilegales originales, es probable que haya propiedades y límites en

litigio. Las organizaciones locales también tendrían la responsabilidad de aclarar estas situaciones. La Comisión de Tierras evaluaría los casos de personas que se consideran seriamente agraviadas. Cuando existe mérito por ambas partes y ambas han usado buena fe, la comisión podrá decidir que la parte agraviada reciba compensación del estado en forma de una parcela equivalente en una nueva área en desarrollo. El objetivo de este ejercicio es regularizar los títulos con un mínimo de conflicto social y proporcionar oportunidades agrícolas a quienes las quieran. El propósito no es maximizar el ingreso gubernamental de la venta de su tierra.

16. Existe otra clase de ocupantes de tierras sujetas a la reforma agraria, que podrían merecer un trato distinto. Éstas son las grandes propiedades invadidas por intereses políticamente poderosos. Al identificar tales casos, el estado tiene la función, en el interés de la justicia social, de intervenir y ejercer sus derechos de propiedad de la tierra, ofreciendo la tierra en subasta. El ocupante actual deberá tener el primer derecho de rechazo al precio de la subasta, menos el valor de las mejoras que éste haya realizado. Si esta opción no está ejercido, el ocupante sería recompensado por el precio de venta de las mejoras que éste haya realizado.

17. Finalmente, existen grandes áreas de tierras públicas baldías o informalmente ocupadas sin mejoras, que podrían ser privatizadas. Los ocupantes que las utilizan de manera "socialmente provechosa"^{2/} y que hayan ocupado los terrenos durante (por ejemplo) tres años, recibirían títulos seguros si están dispuestos a pagar el costo de registro de la tierra. Si la tierra ha sido posesionada de manera adversa, similar a lo anteriormente descrito, se podrá usar soluciones similares. Al final del proceso, los títulos seguros serían registrados en el LIMS.

18. Para disponer de la tierra pública que no haya sido ocupada ni distribuida, se le dividiría en tres categorías:

- (a) tierras inaptas para la agricultura que deberán ser mantenidas en reservas;
- (b) tierras aptas para la agricultura, separadas para que el gobierno recompense a las personas que tengan derechos secundarios sobre la tierra; y
- (c) tierras aptas para la agricultura que el estado venderá dentro de un plazo determinado.

19. La tierra sería subastada, bajo condiciones especificadas, a empresarios y sindicatos campesinos. El mercado determinará el valor de la tierra y permitirá la selección de agricultores en base al valor que designasen a la tierra. El gobierno establecerá los criterios generales que los empresarios garantizados deberán seguir en términos de la infraestructura que deberán proporcionar, y el plazo para el desarrollo de la tierra. El empresario presenta un plan más detallado, indicando la ubicación de la infraestructura, los límites de cada parcela, y el número aproximado de agricultores que serán asentados en la tierra. El empresario sub-dividiría la tierra y la vendería a los campesinos. Los empresarios privados, reflejando su certeza de poder vender la tierra a cierto precio (en base a su productividad), presentarán propuestas al precio de mercado. Es posible que los propietarios de latifundios que actualmente utilicen su tierra en forma extensiva, estén incitados a vender su tierra a un empresario, o hacerse empresarios. De esta forma el mercado de tierras se activa y privatiza.

^{2/} Definida en el párrafo 1.17.

20. Para lograr este resultado, los demás requisitos previos de un mercado de tierras son esenciales. La tierra deberá ser documentada, con titulación simple. Es decir, deben estar completas las partes del LIMS referentes al catastro y registro. El crédito deberá estar disponible, las funciones reguladoras del gobierno deberán estar bien definidas, y el gobierno deberá haber realizado un inventario de su tierra para poder poner las parcelas apropiadas en el mercado al tiempo debido. La privatización de tierras agrícolas aptas sería objeto del ejercicio. Para el gobierno, percibir ganancias de la venta sería elemento secundario, y es el resultado lógico del proceso de asignar tierras a quienes las demanden.

21. Al igual que todos los programas de venta de tierras mediante mecanismos de mercado, los montos a pagar deben ser lo suficientemente bajos como para permitir reembolsar del ingreso agrícola. El éxito también requiere que los gobiernos y prestamistas abandonen la idea de que los compradores de pequeñas propiedades debieran mantenerse en la tierra aunque no ganasen lo suficiente para satisfacer el servicio de su deuda. Se deberá sugerir a quienes sufran infortunios personales o que no hayan tenido éxito como agricultores, que transfieran su terreno a otro campesino y busquen otro empleo.

22. Podría surgir una reforma agraria de grandes proporciones y con resultados muy positivos en cuanto a la distribución y producción. El programa sería de carácter privado y sin paternalismo, representando una tentativa dramática de regularizar la propiedad, activar el mercado de tierras, resolver las limitaciones crediticias, privatizar las tierras estatales y fomentar el crecimiento agrícola. Representaría un paso importante en el desarrollo económico de Venezuela.

I. INTRODUCTION AND OVERVIEW

A. The Objectives and Structure of the Report

1.1 The objectives of this report are to assess the extent to which the land tenure structure in Venezuela is an obstacle to agricultural development and to suggest changes that are needed in order to have an active and competitive land market. Presently, there is little knowledge of who occupies land and under what legal conditions, on the majority of the country's rural land. Estimates are that over two-thirds of farmland have not been surveyed to determine who owns what parcel, the boundaries of each parcel, and whether a legal title is warranted. Another problem with the land market is that many farmers on land provided under the agrarian reform do not have a marketable title to their land. They can neither expand their enterprise nor sell it. Finally, there are large tracts of undeveloped state land suitable for agriculture that could be placed on the land market. In this environment, land encroachment and land disputes are inevitable. Until the question of ownership is resolved, it is not possible to have a formal land market. Further, unclear ownership inhibits investment in land improvement and raises the cost of credit.

1.2 The Ministry of Agriculture and Livestock Production is supporting a program to clarify land ownership and to sell state agricultural land. Part of this effort may involve reforming the regulatory and administrative structure of land redistribution. These activities are part of the widespread structural and macroeconomic reforms that are being undertaken in Venezuela.^{1/} The Ministry has asked for further assistance from the World Bank to complete the cadastre and to assist with the development and sale of public lands. Yet a consensus between the *agraristas* (the traditional advocates of agrarian reform) and the modern efficiency-driven technocrats on how to solve the land question has not happened. This study will provide essential background information and analysis for future actions. It will provide information that may build a bridge between the two groups by demonstrating that equity and efficiency goals can be jointly achieved. It is against this background of conflict between equity and efficiency, between traditional and modern, and between the past and the present that agriculture activities are undertaken in Venezuela.

1.3 The report is arranged in three chapters. The remainder of Chapter I places the land market in a larger context. The economy of Venezuela and the role of agriculture in the economy are outlined. Next, the history of land tenure and philosophical dimensions of it are explained, and finally the patterns and status of land ownership are reviewed. Chapter II reports on the institutional basis and operation of the land market. The chapter starts by providing a description of the conditions needed for a competitive land market. This is followed by a review of the agrarian reform legislation and discussion of the structure, functions and method of operation of the agrarian reform agency, IAN. The chapter continues by outlining the types of land titles and registration arrangements, followed by a discussion of the term credit for land. Chapter II concludes with an evaluation of IAN and the success of the agrarian reform to date. In Chapter III, the various actions

^{1/} For further details on the general reforms being undertaken by the Government, see "Venezuela: Structural and Macroeconomic Reforms—The New Regime," World Bank Report No. 10404-VE (Washington, D.C.: World Bank, April, 1992).

that can be taken to strengthen the land market are collected and discussed. Materials not central to the thesis, but supporting it, are found in annexes.

B. The Economy of Venezuela

1.4 Vast oil reserves were discovered in Venezuela in the 1920s, and since that time the performance of the economy of Venezuela has been tied to the uncertainties of the world oil market. Coupled with the development of oil has been the sense among many Venezuelans that heavy reliance on oil would result in a "vulnerable" economy. Therefore, successive governments in Venezuela have been preoccupied with developing a diversified economy where oil would play a smaller role. Diversification has been stimulated through an active import-replacement policy including some very large projects in steel and aluminum.^{2/}

1.5 Despite massive financial transfers to promote the import-replacement policy, the results of the policy have been disappointing. "Nothing appears to have been gained from the windfall (of oil revenues) in terms of non-oil GDP during 1973-82. Consumption has been the only winner and even that gain is probably temporary."^{3/} Agriculture was one of the "beneficiaries" of the import-replacement policy. Through heavy subsidies, input costs and product prices in agriculture were kept down, imports and exports of agricultural products were controlled, preferential exchange rates for agricultural products were given, and active efforts were made to diversify the agricultural base.^{4/} A wide variety of agricultural commodities were purchased by a state marketing corporation at guaranteed prices above world levels and sold at lower prices. The difference was financed from oil revenues. In the 1970s farmers also benefitted from subsidies on farm inputs such as seeds, fertilizers, pesticides, animal feeds and credit, but public expenditure on agriculture declined significantly after 1983 as oil revenues declined. In 1984 there was an increased emphasis on agriculture in order to reduce reliance on imports. Minimum prices were increased, quotas were placed on agricultural imports, preferential credit was made available to farmers, and fertilizers were again subsidized. Agriculture responded with growth rates exceeding those of the rest of the economy. But the policies were unsustainable. Explicit subsidy costs in excess of US\$1 billion per year, or 2% of GDP, could only be maintained while oil revenues were booming. The result was that the mix and level of agricultural output by the end of the 1980s was inappropriate for a market-based, intervention-free sector. Large adjustments were necessary when, in 1989, the new Government began its structural adjustment and macroeconomic stabilization program.

1.6 With the economic reforms that the Perez administration introduced in 1989, the role of agriculture in a market economy has been placed in a new perspective. Major changes have been

^{2/} For more details see "Venezuela: Oil and Exchange Rates" World Bank Report No. 10481-VE (Washington, D.C.: World Bank, March 1992) and Gelb and Bourgnignon, "Venezuela" *Oil Windfalls: Blessing or Curse?* (New York: Oxford University Press for the World Bank), 1988.

^{3/} Gelb and Bourgnignon, op. cit., p. 322.

^{4/} See "Venezuela: Agricultural Sector Review," World Bank Report No. 8389-VE (Washington, D.C.: World Bank, March 1990).

undertaken and more are forthcoming that are placing agriculture on an incentive-neutral basis. With the removal of most of the distortions in agriculture and barring policy reversals, this sector, for the first time in the modern history of Venezuela, can develop according to market principles. The results over the last three years have been that production of the major agricultural products declined in 1989 and 1990 in response to the agricultural policy reforms but partially recovered in 1991. There appears to be a change in the product composition with traditional products, such as cereals and livestock, declining while vegetables and oilseeds are increasing (Table 1.1)

1.7 However, the country is far from united on the direction and extent of the changes in agricultural policy. Part of the debate, and coinciding with the 30-year anniversary of the Agrarian Reform Law, are the entwined issues of land reform, land ownership and land markets. There is a strong clash of values over the role of land and agriculture in society between the traditional agraristas and the younger, market-oriented technocrats. The *agraristas* defend the original goals of the Agrarian Reform Law which sees land subdivision and distribution—providing land at below-market cost to the rural poor—as a social goal to address equity issues. The market-oriented technocrats, on the other hand, are concerned with economic efficiency. They see the ideal response of the Government as ensuring that a competitive market exists so that the optimum farm size can be determined by market forces.

C. The Role of Agriculture

1.8 In terms of the overall importance of agriculture in the economy, it is, by GDP measures, small. Agriculture and agroindustry accounts for only 6% of GDP and has remained at around that level for 25 years. In countries with similar incomes (upper-middle-income countries), agriculture amounts to 11% of GDP, and in Venezuela's neighboring countries, agriculture's share of GDP is in the high teens and has fallen from even higher levels over the last 20 years. Likewise, agricultural exports have remained at 1% of total exports since 1965, whereas in countries with similar incomes, agricultural exports account for 13% of total exports and have fallen from double that level over the last 20 years. In addition, Venezuela has a very urbanized population. Only 16% of the total population is rural, making it one of the most urbanized developing countries in the world—about as urbanized as Germany and more urbanized than Japan. This unusual structure can be explained largely by the dominant influence of oil on the economy.

1.9 Yet agriculture has a political and social importance not revealed by the numbers. The rural sector contains many poor, and smallholder farming is seen by the government as a major means of providing economic opportunity and equity to the poor. The "social importance" of farm land is a phrase that is frequently heard when discussing land tenure or agriculture in Venezuela, and this aspect provided the initial impetus for land reform. But agriculture has a potential economic importance also. Venezuela is well endowed with agricultural land. There is considerable physical scope for expansion of the area under cultivation—of Venezuela's 92 million hectares (ha), more than half is suitable for agriculture, yet only 31 million ha are being used and only 2.1 ha are being cropped.

1.10 The areas of farming in Venezuela can be divided into four zones. First is the mountainous area running in an arc from Caracas to the Andean region in the northwest. Approximately 85% of the country's population lives in this region as do the majority of small farmers. They produce fruit, vegetables, coffee, cocoa and milk. The second zone is the *llanos* or

lowlands, running from the southern Andean foothills to the Orinoco delta. The *llanos* make up approximately 25% of the land area and are used mainly for beef production. A third zone, the central plains, lies immediately north of the *llanos* and produces the majority of annual crops, particularly cereals, and livestock. The fourth zone is the flood plain of Lake Maracaibo in western Venezuela. This region produces most of the dairy products and sugar.

1.11 Meat is the product with the highest total value in Venezuela, followed by cereals (mainly corn and rice), milk, fruits, and fish products. Oilseeds, fruits and legumes are the products that have been growing most rapidly in value. Tables 1.1 and 1.2 provide further details. Venezuela is a consistent net importer of agricultural products, amounting to around US\$800 million in 1990. Major imports are cereals (primarily wheats), feedstuffs and vegetable oils, while the main exports are coffee, cocoa and cotton.

Table 1.1: Venezuela: Agricultural Production, 1985-1991
(000 tons)

	CEREALS	LEGUMES	OILSEEDS & FIBERS	ROOTS & TUBERS	FRUITS	VEGETABLE PRODUCTS	LIVESTOCK a/	OTHERS b/
1985	1821.9	44.1	298.7	609.6	2220.6	312.9	4698.1	5819.5
1986	2250.5	46.0	324.7	618.1	2252.3	334.4	4891.9	7470.2
1987	2418.1	48.8	323.6	650.1	2294.9	358.1	5013.2	8160.9
1988	2484.8	50.5	358.3	671.2	2441.6	384.8	5119.9	8463.8
1989	1829.9	52.1	347.7	693.6	2529.6	477.1	4577.3	7947.3
1990	1779.9	59.7	456.9	625.8	2602.7	399.2	4430.7	7040.5
1991	2250.2	59.2	367.7	725.3	2763.6	431.4	4515.7	7210.3
GROWTH RATE c/								
1985-1991	-0.4%	5.5%	5.0%	2.2%	3.4%	5.9%	-1.4%	1.8

Table 1.2: Venezuela: Value of Agricultural Production in 1988 Prices, 1985-1991
(Bs million)

	CEREALS	LEGUMES	OILSEEDS & FIBERS	ROOTS & TUBERS	FRUITS	VEGETABLE PRODUCTS	LIVESTOCK	OTHERS
1985	1556.1	112.5	392.4	606.2	1386.1	467.5	3743.3	1348.4
1986	1903.4	117.8	445.2	614.3	1407.7	501.1	3878.4	1460.4
1987	2047.8	124.8	417.4	650.8	1430.4	535.7	3923.1	1550.8
1988	2103.5	129.0	488.1	674.5	1522.6	573.5	4022.3	1587.3
1989	1550.9	135.5	486.4	687.9	1575.7	620.8	3766.4	1572.0
1990	2767.8	157.4	748.3	866.3	2102.2	876.9	6064.6	2145.4
1991	3436.9	158.6	635.2	997.9	2266.6	974.3	5990.6	2096.9
GROWTH RATE c/								
1985-1991	10.7%	6.2%	9.9%	8.3%	8.8%	13.2%	8.4%	7.8%

a/ Heads of cattle, pig, sheep and goat.

b/ Includes coffees, cocon, sugar cane, tobacco and certified seeds.

c/ OLS fitted growth rates.

Source: Oficina Central de Estadística e Informática: Anuario Estadístico de Venezuela, various issues.

D. The History of Land Tenure

1.12 In 1573, following the Spanish conquest of the lands around what is now known as Venezuela, King Phillip II asserted the right of the Crown over all conquered land. By royal warrants land was granted to any settlement that was founded, to individuals and to the church. Thus royal, individual, collective and ecclesiastic property ownership was developed. Individual and collective ownership underwent changes over time so that many forms of ownership existed.

1.13 With the birth of the Republic in 1811, much land was confiscated. Simon Bolivar enacted the first Law of Parcelling National Land in 1817. This declared that land owned by absentee Spanish landlords would be seized and subdivided. The motivation for this reform was largely political—to promote the cause of independence. Present land ownership patterns derive from this period. All remaining land was the property of the state, a concept that remained vague until 1936 when it was defined as "all uncultivated land that is neither common land (owned by municipalities) nor privately held." With an incomplete and fragmented land registry and a lack of a national cadastre, land ownership remains less than fully formal to this day.

1.14 To understand the effects of, and impetus for, land reform in Latin America, it is necessary to understand that traditional forms of land tenure there have differed greatly from those in pre-reform Europe or Asia where land reform has occurred. In the latter areas, large land owners have typically been landlords renting parcels to tenants for payment of cash or crop shares. Tenants are effectively the operators of their farms, whether subsistence or commercial. Although these forms of tenure exist in Latin America, the dominant traditional form of large estates is the *latifundio* on which most productive work is undertaken by workers under the central control of the owner. The workers are obliged to work for four to six days per week and in return they have the right to till a subsistence plot on the same estate. They also may receive cash or a share of the crop, according to local custom or law. There is a strong dependency relationship between the owner and the worker. The worker cannot be considered to be an independent farm operator with any farm management skills.

1.15 While traditional tenure arrangements and *latifundios* can still be found, they are no longer as prevalent as they were 50 years ago. Large estates have been either mechanized (modern farming methods) in which case the few farm workers remaining have been transformed into wage laborers, or the estates have been subdivided under the land reform, in which case former workers have obtained their own plots. Some landowners, foreseeing the inevitable, have even "voluntarily" subdivided part of their land holdings for former workers.

1.16 Land reform started at the turn of the century. But the second phase, begun in the 1960s, was the most significant. Venezuela came to the conclusion that land reform was necessary to avert rural tension and social revolution. The Agrarian Reform Law was enacted in 1960 after peasant invasions had occurred on farm estates. This law based land redistribution on the concept of the "social function" of land ownership.

1.17 There are two significant aspects to the "social function" of land as a criterion for distribution decisions. Large landowners who are making productive use of the land—using modern equipment and technology, producing efficiently, and complying with social, fiscal and labor legislation—are said to be fulfilling their "social function" and are less vulnerable to losing their land